

E-X-T-R-A-C-T

S 12921

CONGRESSIONAL RECORD--SENATE

September 13, 1967

" . . . The bill, under section 7, does not apply to the Federal Bureau of Investigation. Furthermore, section 6 provides that nothing in the act will prohibit an official of the Central Intelligence Agency and the National Security Agency from requesting any employee or applicant to take a polygraph test or a psychological test, or to provide a personal financial statement, designed to elicit the personal information protected under subsections 1(e), (f), (i), and (j). In such cases, the Director of the Agency must make a personal finding with regard to each individual to be tested or examined that such test or information is required to protect the national security. . . . "

E-X-T-R-A-C-T

S 12913

CONGRESSIONAL RECORD--SENATE

September 13, 1967

". . . A threefold need for this bill is outlined in the committee report.

The first is the immediate need to establish a statutory basis for the preservation of certain rights and liberties of those citizens who now work for Government and those who will work for it in the future. The bill not only remedies problems of today but looks to the future in recognition of the almost certain enlargement of the scope of Federal activity and the continuing rise in the number of Americans employed by their Federal Government or serving it in some capacity.

Second, the bill meets the Federal Government's need to attract the best qualified employees, and to retain them with the assurance that they will be treated fairly and as people of honesty and integrity.

Third, is the growing need for the beneficial influence which such a statute would provide in view of the present impact of Federal policies, regulations, and practices on those of State and local government and of private business and industry. . . ."

". . . With one exception, all of the amendments added in subcommittee and committee are meritorious. They clarify possible ambiguities and insure that the purpose of the bill is achieved.

The one exception is the new section 6 pertaining to the Director of the Central Intelligence Agency or the Director of the National Security Agency. Upon a personal finding that any psychological testing, polygraph testing, or financial disclosure is required to protect national security, they could allow these measures in individual cases.

Prior to adoption of this amendment, I met several times with representatives of the CIA and NSA; and all legitimate objections on grounds of security were met.

Personally, I would not favor even the limited exemption in section 6. As I have stated before, the subcommittee's study of psychological testing clearly demonstrated that such tests are both useless and offensive as tools of personnel

administration; and my own research has convinced me that polygraph machines are totally unreliable for any purpose. If the security of the United States rests on these devices, we are indeed pitifully insecure. Fortunately, it does not, for the FBI does not use these examinations.

But even if it could be shown that psychological tests and polygraphs have mystical powers and can be used to predict behavior or devine the truth, I would still oppose their being used to probe the religious beliefs, family relationships, or sexual attitudes of American citizens. A fundamental ingredient of liberty is the right to keep such matters to oneself. And without liberty, 'national security' is a hollow phrase. The truth is, there is no place for this sort of 20th century witchcraft in a free society.

Nevertheless, I am requesting the committee amendment granting a partial exemption to the CIA and NSA be accepted with the other amendments. I do this for two reasons. First, the amendment will require that use of the examinations by the two agencies be severely curtailed; and for the first time Congress will be withholding its permission for the agencies to kick American citizens around with impunity. Second, it is clear to me that a number of the bill's 55 cosponsors prefer that the CIA and NSA be allowed this partial exemption. I trust the Directors of the Agencies will use it with restraint. . . ."

E-X-T-R-A-C-T

S 12922

CONGRESSIONAL RECORD--SENATE

September 13, 1967

". . . Opening the hearings on invasions of privacy, Senator Ervin stated:

'Never in the history of the Subcommittee on Constitutional Rights have we been so overwhelmed with personal complaints, phone calls, letters, telegrams, and office visits. In all of our investigations, I have never seen anything to equal the outrage and indignation from Government employees, their families, and their friends. It is obvious that appropriate remedies are not to be found in the executive branch.

'The complaints of privacy invasions have multiplied so rapidly of late that it is beyond the resources of Congress and its staff to repel effectively each individual official encroachment. Each new program brings a new wave of protest.'"

E-X-T-R-A-C-T

S 12925

CONGRESSIONAL RECORD--SENATE

September 13, 1967

" . . . Section 6 is a committee amendment which provides that nothing in the act shall be construed to prohibit an officer of the Central Intelligence Agency or of the National Security Agency, under specific conditions, from requesting an applicant or employee to submit a personal financial statement of the type defined in subsections 1(i) and (j) or to take any polygraph or psychological test designed to elicit the personal information protected under subsection 1(e) or 1(f).

In these Agencies, such information may be required from the employee or applicant by such methods only if the Director of the Agency makes a personal finding with regard to each individual that such test or information is required to protect the national security. . . ."

E-X-T-R-A-C-T

S 12926

CONGRESSIONAL RECORD--SENATE

September 13, 1967

" . . . I would suggest that, despite some on-going work by special committees that have been set up by the executive branch, the Federal executive branch has not established clear and sensitive rules governing the occasions on which techniques such as polygraphs and personality testing might be used, and surely has not yet established careful procedures for conducting such interrogations in any of the limited areas in which it might be justified. . . ."

EXECUTIVE ORDER 10450

As amended October 13, 1953, May 27, 1954, August 2, 1954 and August 5, 1954

Security Requirements for Government Employment

"Whereas the interests of the National security require that all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

"Whereas the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

"Now, Therefore, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U.S.C. 631); the Civil Service Act of 1883 (22 Stat. 403; 5 U.S.C. 632, et seq.); section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U.S.C. 118j); and the act of August 26, 1950, 64 Stat. 476 (5 U.S.C. 22-1, et seq.), and as President of the United States, and deeming such action necessary in the best interests of the national

security, it is hereby ordered as follows: /

SECTION 1. In addition to the departments and agencies specified in the said act of August 26, 1950, and Executive Order No. 10237 of April 26, 1951, the provisions of that act shall apply to all other departments and agencies of the Government.

SECTION 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to ensure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security.

SECTION 3. (a) The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law-enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation: Provided, that upon request of the head of the department

or agency concerned, the Civil Service Commission may, in its discretion, authorize such less investigation as may meet the requirements of the national security with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States. Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a full field investigation, or such less investigation as shall be sufficient to enable the head of the department or agency concerned to determine whether retention of such person is clearly consistent with the interests of the national security.

(b) The head of any department or agency shall designate, or cause to be designated, any position within his department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security as a sensitive position. Any position so designated shall be filled or occupied only by a person with respect to whom a full field investigation has been conducted: Provided, that a person occupying a sensitive position at the time it is designated as such may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of this order: And provided further, that in case of emergency a sensitive position may be filled for a limited

period by a person with respect to whom a full field preappointment investigation has not been completed if the head of the department or agency concerned finds that such action is necessary in the national interest, which finding shall be made a part of the records of such department or agency.

SECTION 4. The head of each department and agency shall review, or cause to be reviewed, the cases of all civilian officers and employees with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947, and, after such further investigation as may be appropriate, shall readjudicate, or cause to be readjudicated, in accordance with the said act of August 26, 1950, such of those cases as have not been adjudicated under a security standard commensurate with that established under this order.

SECTION 5. Whenever there is developed or received by any department or agency information indicating that the retention in employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, such information shall be forwarded to the head of the employing department or agency or his representative, who, after such investigation as may be appropriate, shall review, or cause to be reviewed, and, where necessary, readjudicate, or cause to be readjudicated, in accordance with the said act of August 26, 1950, the case of such officer or employee.

SECTION 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such suspension necessary in the interests of the national security and, following such investigation and review as he deems necessary, the head of the department or agency concerned shall terminate the employment of such suspended officer or employee whenever he shall determine such termination necessary or advisable in the interests of the national security, in accordance with the said act of August 26, 1950.

SECTION 7. Any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or reemployed in the same department or agency, and shall not be reemployed in any other department or agency, unless the head of the department or agency concerned finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the records of such department or agency: Provided,

that no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Civil Service Commission that such person is eligible for such employment.

SECTION 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

(1) Depending on the relation of the Government employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(iv) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(5) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or

subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.

(6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(8) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his alleged disloyalty or other misconduct.

(b) The investigation of persons entering or employed in the competitive service shall primarily be the responsibility of the Civil Service Commission, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or by agreement with the Commission. The Commission shall furnish a full investigative report to the department or agency concerned.

(c) The investigation of persons (including consultants, however employed), entering employment of, or employed by, the Government other than in the competitive service shall primarily be the responsibility

of the employing department or agency. Departments and agencies without investigative facilities may use the investigative facilities of the Civil Service Commission, and other departments and agencies may use such facilities under agreement with the Commission.

(d) There shall be referred promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information indicating that an individual may have been subjected to coercion, influence, or pressure to act contrary to the interests of the national security, or information relating to any of the matters described in subdivisions (2) through (8) of subsection (a) of this section. In cases so referred to it, the Federal Bureau of Investigation shall make a full field investigation.

SECTION 9. (a) There shall be established and maintained in the Civil Service Commission a security-investigations index covering all persons as to whom security investigations have been conducted by any department or agency of the Government under this order. The central index established and maintained by the Commission under Executive Order No. 9835 of March 21, 1947, shall be made a part of the security-investigations index. The security-investigations index shall contain the name of each person, and a reference to each department and agency which has conducted an investigation concerning the person involved or has suspended or terminated the employment of such person under the authority granted to heads

of departments and agencies by or in accordance with the said act of August 26, 1950.

(b) The heads of all departments and agencies shall furnish promptly to the Civil Service Commission information appropriate for the establishment and maintenance of the security-investigations index.

(c) The reports and other investigative material and information developed by investigations conducted pursuant to any statute, order, or program described in section 7 of this order shall remain the property of the investigative agencies conducting the investigations, but may, subject to considerations of the national security, be retained by the department or agency concerned. Such reports and other investigative material and information shall be maintained in confidence, and no access shall be given thereto except, with the consent of the investigative agency concerned, to other departments and agencies conducting security programs under the authority granted by or in accordance with the said act of August 26, 1950, as may be required for the efficient conduct of Government business.

SECTION 10. Nothing in this order shall be construed as eliminating or modifying in any way the requirement for any investigation or any determination as to security which may be required by law.

SECTION 11. On and after the effective date of this order the Loyalty Review Board established by Executive Order No. 9835 of March 21, 1947,

shall not accept agency findings for review, upon appeal or otherwise. Appeals pending before the Loyalty Review Board on such date shall be heard to final determination in accordance with the provisions of the said Executive Order No. 9835, as amended. Agency determinations favorable to the officer or employee concerned pending before the Loyalty Review Board on such date shall be acted upon by such Board, and whenever the Board is not in agreement with such favorable determination the case shall be remanded to the department or agency concerned for determination in accordance with the standards and procedures established pursuant to this order. Cases pending before the regional loyalty boards of the Civil Service Commission on which hearings have not been initiated on such date shall be referred to the department or agency concerned. Cases being heard by regional loyalty boards on such date shall be heard to conclusion, and the determination of the board shall be forwarded to the head of the department or agency concerned: Provided, that if no specific department or agency is involved, the case shall be dismissed without prejudice to the applicant. Investigations pending in the Federal Bureau of Investigation or the Civil Service Commission on such date shall be completed, and the reports thereon shall be made to the appropriate department or agency.

SECTION 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked. For the purposes described in section 11

hereof the Loyalty Review Board and the regional loyalty boards of the Civil Service Commission shall continue to exist and function for a period of one hundred and twenty days from the effective date of this order, and the Department of Justice shall continue to furnish the information described in paragraph 3 of Part III of the said Executive Order No. 9835, but directly to the head of each department and agency.

SECTION 13. The Attorney General is requested to render to the heads of departments and agencies such advice as may be requisite to enable them to establish and maintain an appropriate employee-security program.

SECTION 14. (a) The Civil Service Commission, with the continuing advice and collaboration of representatives of such departments and agencies as the National Security Council may designate, shall make a continuing study of the manner in which this order is being implemented by the departments and agencies of the Government for the purpose of determining:

(1) Deficiencies in the department and agency security programs established under this order which are inconsistent with the interests of, or directly or indirectly weaken, the national security.

(2) Tendencies in such programs to deny to individual employees fair, impartial, and equitable treatment at the hands of the Government,

or rights under the Constitution and laws of the United States or this order.

Information affecting any department or agency developed or received during the the course of such continuing study shall be furnished immediately to the head of the department or agency concerned. The Civil Service Commission shall report to the National Security Council, at least semiannually, on the results of such study, shall recommend means to correct any such deficiencies or tendencies, and shall inform the National Security Council immediately of any deficiency which is deemed to be of major importance.

(b) All departments and agencies of the Government are directed to cooperate with the Civil Service Commission to facilitate the accomplishment of the responsibilities assigned to it by subsection (a) of this section.

(c) To assist the Civil Service Commission in discharging its responsibilities under this order, the head of each department and agency shall, as soon as possible and in no event later than ninety days after receipt of the final investigative report on a civilian officer or employee subject to a full field investigation under the provisions of this order, advise the Commission as to the action taken with respect to such officer or employee. The information furnished by the heads of departments and agencies pursuant to this section shall be included in the reports

which the Civil Service Commission is required to submit to the National Security Council in accordance with subsection (a) of this section. Such reports shall set forth any deficiencies on the part of the heads of departments and agencies in taking timely action under this order, and shall mention specifically any instances of noncompliance with this subsection.

SECTION 15. This order shall become effective thirty days after the date hereof.

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1 September 1967

The Honorable Richard B. Russell, Chairman
Committee on Armed Services
The United States Senate
Washington, D. C.

My dear Mr. Chairman:

The attached letter sets forth my views on the provisions of Senate 1035. I deeply regret disturbing you during the Labor Day recess with this matter, but I need your advice and counsel as to how I should conduct myself in this situation. Do you want me to see various Senators and present my views, or would you prefer that I leave the matter in your hands? Further, I shall be glad to make copies of the attached letter available to the members of the subcommittee on C. I. A. if you think it appropriate.

As you know, S. 1035 was scheduled for Senate floor action on 29 August. When I learned this on the afternoon of 28 August, I took the liberty, in your absence, of appealing to Senators Stennis and Dirksen to get consideration of the bill put over. It is now scheduled for 19 September.

I hope that in reading the bill, you will come to agree with my concerns about it.

Respectfully,

Richard Helms
Director

Attachments

RHelms/ecd - 1/9/67

Distribution: Orig & 1 - addressee

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29 August 1967


MEMORANDUM FOR: Deputy Director for Support

SUBJECT : Addendum to Summary on Use of Personal Index

REFERENCE : My memorandum, dtd 28 Aug 1967, Subj: Additional
Information for Director's Briefing of Senate
Judiciary Committee

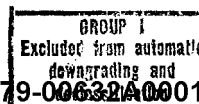
In the past two years there have been no incidents of refusal by an applicant to complete the Personal Index. If such had occurred, it is established policy for the individual to be offered the opportunity to discuss the matter with a professional member of the Office of Medical Services.

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Acting Director of Medical Services

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CONTENTS OF THE CLERICAL EMPLOYEE TEST BATTERY

In order of presentation:

Clerical Speed and Accuracy - 6 minutes

This test includes typical work samples that file clerks, coding clerks and other clerical employees often meet in fulfilling their job assignments. It is a test of speed and accuracy in responding to number and letter combinations.

Spelling - 10 minutes

This test is designed to measure an individual's ability to distinguish correctly and incorrectly spelled words from a list which are frequently used and frequently misspelled. This is an ability required of proof-readers, stenographers, typists, and other clerical workers.

Sentences - 25 minutes

The abilities required to distinguish good and bad grammar, punctuation, and word usage are important for jobs which require the use of written language. The sentences test is designed to measure these abilities.

Numerical Ability - 30 minutes

An individual whose job will require understanding of numerical relationships and facility in handling numbers should do well on this test. However, superior performance on this test is not essential for those people who will use various types of calculating equipment, e.g., adding machines, desk calculators.

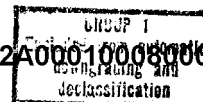
Abstract Reasoning - 25 minutes

This test is a measure of non-verbal reasoning ability. It is a good predictor of general learning ability and is also helpful in distinguishing those people who work more comfortably with "things" rather than numbers or letters.

Verbal Reasoning - 30 minutes

The verbal reasoning test measures the ability to understand concepts framed in words. The test is a good indicator of probable success in traditional academic learning situations and of potential in most jobs involving the comprehension and use of verbal materials, e.g., stenographer, secretary, junior professionals.

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